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## Mendel Biotechnology, Inc.

To: U.S. PATENT AND TRADEMARK OFFICE  
ATTN: Examiner David H. Kruse  
Group Art Unit 1638

Facsimile: (703) 872-9307  
(After Final)  
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From: Jeffrey M. Libby, Ph.D.,

Date: August 8, 2003

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### CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office on August 8, 2003.

Kathleen K. Muto  
Kathleen K. Muto

RE: APPLICATION NO.: 09/533,029

DOCKET NO.: MBI-0010

FILED: March 22, 2000

TITLE: TRANSGENIC PLANTS COMPRISING POLYNUCLEOTIDES ENCODING  
TRANSCRIPTION FACTORS THAT CONFER DISEASE TOLERANCE

#### Enclosures:

- 1) Transmittal Form (1 pg);
- 2) Fee Transmittal Form (1 pg.); and
- 3) Response to Advisory Action and Amendment (5 pgs.).

Respectfully,

Jeffrey M. Libby

Jeffrey M. Libby, Ph.D. (Reg. No. 48,251)

PTO/SB/21 (03-03)


Approved for use through 04/30/2003, OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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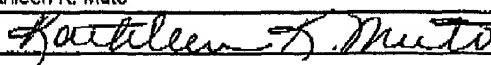
<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>	Application Number	09/533,029	
	Filing Date	3/22/2000	
	First Named Inventor	HEARD, Jacqueline E.	
	Art Unit	1638	
	Examiner Name	David H. Kruse	
Total Number of Pages in This Submission	7	Attorney Docket Number	MBI-0010 CPA

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input checked="" type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to a Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks		

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual	Jeffrey M. Libby, Ph.D., Reg. No. 48,261 Mendel Biotechnology, Inc. 21375 Cabot Blvd., Hayward, CA 94545
Signature	
Date	August 8, 2003

## CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date: 8-8-2003			
Typed or printed	Kathleen K. Muto		
Signature		Date	8-8-03

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

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PTO/SB/17 (01-03)

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**FEE TRANSMITTAL  
for FY 2003**

Effective 01/01/2003, Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)-0-

**Complete if Known**

Application Number	09/533,029
Filing Date	3/22/2000
First Named Inventor	HEARD, Jacqueline E.
Examiner Name	David H. Kruse
Art Unit	1638
Attorney Docket No.	MSI-0010 CPA

**METHOD OF PAYMENT (check all that apply)**☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☒ Deposit Account:Deposit  
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Mendel Biotechnology, Inc

The Commissioner is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Credit any overpayments☐ Charge any additional fee(s) during the pendency of this application☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	750	2001	375	Utility filing fee	
1002	330	2002	165	Design filing fee	
1003	520	2003	260	Plant filing fee	
1004	750	2004	375	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
<b>SUBTOTAL (1)</b>					<b>(\$ 0.00)</b>

**2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE**

Total Claims		Extra Claims		Fee from below		Fee Paid	
Independent		-20** =		X		=	
Multiple Dependent		-3** =		X		=	

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1202	18	2202	9	Claims in excess of 20	
1201	84	2201	42	Independent claims in excess of 3	
1203	280	2203	140	Multiple dependent claim, if not paid	
1204	84	2204	42	** Reissue independent claims over original patent	
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent	
<b>SUBTOTAL (2)</b>					<b>(\$ 0.00)</b>

\*\*or number previously paid, if greater; For Reissues, see above

**FEE CALCULATION (continued)****3. ADDITIONAL FEES**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	410	2252	205	Extension for reply within second month	
1253	930	2253	465	Extension for reply within third month	
1254	1,450	2254	725	Extension for reply within fourth month	
1255	1,970	2255	985	Extension for reply within fifth month	
1401	320	2401	160	Notice of Appeal	
1402	320	2402	160	Filing a brief in support of an appeal	
1403	260	2403	140	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,300	2453	650	Petition to revive - unintentional	
1501	1,300	2501	650	Utility issue fee (or reissue)	
1502	470	2502	235	Design issue fee	
1503	630	2503	315	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	750	2809	375	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	750	2810	375	For each additional invention to be examined (37 CFR 1.129(b))	
1801	750	2801	375	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

\*Reduced by Basic Filing Fee Paid

**SUBTOTAL (3)** (\$ 0)**SUBMITTED BY**

(Complete if applicable)

Name (Print/Type)	Jeffrey M. Libby, Ph.D.	Registration No. (Attorney/Agent)	48,251	Telephone	510-259-6138
Signature		Date	Aug 8, 2003		

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Patent Application

Atty Docket No. MBI-0010

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of Jacqueline HEARD *et al.*

Serial No.: 09/533,029

Filed: March 22, 2000

Title: TRANSGENIC PLANTS COMPRISING  
POLYNUCLEOTIDES ENCODING TRANSCRIPTION  
FACTORS THAT CONFER DISEASE TOLERANCE

) Examiner: David H. Kruse

) Art Unit: 1638

) **RESPONSE TO ADVISORY ACTION**

\_\_\_\_\_  
Commissioner for Patents  
Mail Stop AF  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:


This response regarding the above-referenced application is filed in response to the Advisory Action mailed July 21, 2003, and supplemental to the Response to Final Rejection mailed January 8, 2003, for the above-identified patent application, and is submitted before Monday, August 18, 2003, the two month anniversary of receipt of the Notice of Appeal at the USPTO falling on Saturday, August 16, 2003. Please consider and make of record the following amendments and remarks. Entry of these amendments is respectfully requested.

**CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) 872 - 9307

on August 8, 2003.

Printed Name: Kathleen Muto

  
(Signature)